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1882

THE PENDLETON BILL

AND

THE DAWES BILL

COMPARED

BY THE COMMITTEE ON LEGISLATION OF THE CIVIL-SERVICE REFORM ASSOCIATION

NEW YORK

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EXPLANATION.

THE report of the Senate Committee just made in favor of the *Pendleton Bill* may reasonably be expected to unite the friends of reform in its support. But it must not be forgotten that plausible reasons were urged before the committee and were widely disseminated in favor of a bill introduced by Senator Dawes. It is not certain that the latter bill will not be pressed before the Senate.

The need of harmonious opinions and united action to insure success makes it important to do the utmost for their attainment. While the great end sought is infinitely more important than the means of reaching it, yet, so long as different bills in any degree divide the forces of reform, which is the better cannot be an immaterial question.

These considerations have caused THE CIVIL-SERVICE REFORM ASSOCIATION OF NEW YORK to instruct its Committee on Legislation to prepare the following Statement, which covers the origin, the relative merits, and the probable effects of the two bills. Both of them have been made the subject of discussion in various journals, and especially in the *Civil-Service Record*, the principal organ of the reform movement, during the hearing in regard to them before the Senate Committee.

The discussions in the *Record* were so thorough, and the

conclusions it reached have been so generally accepted, that we have quoted largely from its columns in the preparation of this Statement. It is with regret that the committee feel called upon to condemn the bill introduced by Mr. Dawes, and they do so with the greatest possible respect for his preferences and for his great interest in the cause of reform.

DORMAN B. EATON,
EVERETT P. WHEELER, } *Committee.*

NEW YORK, *May* 15, 1882.

STATEMENT.

THE cause of reform will be best served by putting in comparison the two bills, the Pendleton Bill and that introduced by Mr. Dawes, quite irrespective of the fact that the Senate Committee has made its report in favor of the former.

I.—ORIGIN AND HISTORY.

Intrinsically considered, the origin and history of the bills have nothing to do with their merits; but the specious suggestion, that the Pendleton Bill is so identified with one party that the other should distrust it, makes the facts on those points material.

Early in the last session, Senator Pendleton, of Ohio, feeling a deep interest in the cause of reform, and resolved to do what he could to promote it, presented a bill for that purpose, based upon the bill of the late Mr. Jenckes, and it went before a committee of the Senate. But before any action had been taken upon it, several gentlemen, who had had most experience in giving practical effect to reform methods, having become convinced that legislation, simpler and less open to constitutional objections than Mr. Jenckes proposed, could be made effective. had prepared another bill—the present so-called Pendleton Bill. The original bill of Mr. Pendleton was still before the Senate Committee, of which both he and Mr. Dawes were members.

The new bill was prepared with great care. The *Record*

truly declares that it had received the most careful scrutiny and approval of an association of gentlemen of both parties (though in majority Republican); and among them there were two ex-members of the Cabinet, several persons who had made the most thorough study of administrative questions, and nearly every person in this country (if not as a member, yet as an adviser) who had had any large experience in carrying reform methods into practice. Every point covered by the bill, subsequently presented by Mr. Dawes, was carefully considered, in framing the prior bill, by men who had had the largest experience under all the reform methods involved.

Mr. Pendleton knew nothing of the bill until it was complete in the *precise language* in which it was approved by the committee of the last Congress. No party consideration shaped a sentence of it. The very reasons which now cause all true friends of reform to regret the existence of two bills, and to feel that all jealousy and partisan feeling on the subject are unworthy, placed that bill in the hands of Mr. Pendleton—though not without the approval of distinguished Senators who were consulted.

Mr. Pendleton's magnanimous surrender of his own bill, and his acceptance of that tendered him in its place, after a full discussion of both before the Senate Committee, which convinced him that the latter was the better bill, justified the placing of it in his hands. It was not by his instrumentality that the bill he adopted came to be called the "Pendleton Bill." Nearly a year elapsed, and no other appeared. The Pendleton Bill had received the approval of nearly every intelligent friend of reform in the country. In a letter which he contributes to the Springfield *Republican*, of July 29, 1881, Mr. Dawes says:

"I was myself of the Pendleton Committee, and *helped prepare and report the bill* which goes under that name; and

I am now ready to defend it for all the good it can accomplish, if not for all that some of its friends expect from it."

In a letter which he contributed to the same journal, of August 15, 1881, Mr. Dawes says of this same Pendleton Bill:

"The three main features of the bill, carried by proper enactment into the civil service of the country, would be of inestimable value," etc.

The report of the committee in favor of the Pendleton Bill, at the session a year ago last winter, was accompanied with an elaborate statement of reasons, from which there does not appear to have been any dissent.

The bill not having been reached at the last session, it went again before the same committee at the present session; some of the members of this committee had been changed, but Mr. Dawes and Mr. Pendleton are still upon it.

No other bill on the subject was referred to the committee until the 24th of January last, when Mr. Dawes presented the other bill which we have referred to, the origin of which is unknown to us. It was referred to the same committee.

The Senate Committee reported a second time in favor of the Pendleton Bill, in April, 1882, after having taken the testimony of several of the most experienced officers and students of administration who were called before them, not only to ascertain their opinions as to the comparative merits of the two bills, but their views as to the practicability of accomplishing the objects which they are both intended to promote.

II.—The Common Objects of the Bills.

Both seek to substitute a merit system of office in place of a spoils system. Both require competitive examinations

for admission to the public service and for promotion in it, but we shall find that the Dawes Bill* contains impraticable provisions on these points.

While, therefore, the great purpose of both bills is to arrest favoritism and proscription in the public service, and both rely on competitive examinations as the most essential means to that end, there are important conditions of success omitted in the Dawes Bill, but contained in the other, which we shall point out.

III.—The Aim, Scope, and Methods of the Pendleton Bill.

It is the duty of the officers having the appointing power to appoint and promote the most worthy. But in the great departments and in the larger offices outside of Washington, and especially in offices having more than fifty clerks, they are not able to do so—partly from want of time and information, and partly by reason of partisan coercion, or almost irresistible solicitation. Examinations are intended to aid the appointing power in ascertaining who are most deserving of appointments and promotions. While the more isolated pass-examinations under separate department boards, now required by the 163d and 164th sections of the Revised Statutes, have been useful, they are yet entirely inadequate. But competitive examinations, under a Civil Service Commission, both in this country and in England, have brought into the service and promoted superior persons and greatly improved the vigor and economy of the administration. Ample proof on those points appears in the evidence referred to as taken before the Senate Committee.

* In speaking of the latter bill as the Dawes Bill, we simply mean that it was a bill introduced by Senator Dawes; not that he prepared it, or is otherwise responsible for it.

When, by the law of 1871 (now U. S. Revised Statutes, §1753), the President was authorized to make civil service rules and to require examinations, feeling the need of more effective examinations than those just referred to, President Grant established competitive examinations, and created a Civil Service Commission in aid of enforcing them; though the act gives authority to do this only by implication. Repeated messages which he sent to Congress, asking for appropriations for continuing these methods, plainly and strongly declare their beneficial results. And in his last message on the subject before Congress finally refused a further appropriation in 1875, he declared that a suspension of the rules and examinations would be a "mortification to him," but that it would be unavoidable if Congress should refuse a further appropriation. It did refuse, and the rules and competitive examinations were suspended. Congress refused in silence, without a debate or a record of votes. We leave the reasons to inference. The old patronage of the members was thus regained. The law of 1871 did not commit Congress to the essential conditions of a reform, but, putting the whole burden upon the President, left its members at liberty to censure and embarrass the efforts of the President and to press the departments for the patronage which competitive examinations tended rapidly to suppress. President Grant, as has been the case with each President since, desired Congress to give its much-needed support to those conditions and to assume its proper share of responsibility, as being essential to the success of a reform policy.

It is upon such principles, in reference to such needs, and in the light of such experience, that the Pendleton Bill was framed.

It requires public competitive examinations, irrespective of political opinions of those seeking appointments in the subordinate Executive service, which would enable the

Government, by bringing the merits of many into comparison, to secure the best of all who seek to enter that service. Such free competition of merit would be substituted for the private, isolated pass-examinations of the mere favorites and nominees of members of Congress, patronage-mongers, and great officers, who alone are now examined under the 163d and 164th sections already cited. It directly provides for a *Civil Service Commission*, with properly defined authority, duty, and responsibility, in the place of one of indefinite powers, which President Grant had found it necessary to create, for exercising general supervision, subject to the rules and orders of the President, over all the examinations. And there is imposed upon it the duty of making full annual reports, covering the execution of the law and its practical effects. It is also a part of the duty of the Commission, subject to the general rules which the President may lay down and to the special instructions which he may from time to time give, to see that the subjects upon which examinations take place, the questions asked, the regulations enforced, the examinations conducted, and all the methods for selecting the more meritorious, as well as all the other details of enforcing the law, shall at all times and places be just, uniform, and reasonable; and also to annually set forth the facts on these points in its reports so fully and clearly that the President and Congress can see whether the law is properly administered and the results are just and beneficial.

And for these threefold reasons—(1) that a new system ought not to be made general until most thoroughly tested; (2) that the abuses are greatest in the largest offices; and (3) that methods hostile to mere partisan, selfish interests are sure to be bitterly attacked at first and need the most careful supervision in the outset—the Pendleton Bill makes competitive examinations compulsory only in the great

departments at Washington and at such Post-Offices and Custom-Houses as have fifty or more clerks; of which offices there are less than thirty in all. But it allows the President to extend such examination, from time to time, to smaller offices, whenever, in his judgment, the good result attained at the larger offices shall warrant such extension.

The bill, with that scope, will cause all vacancies which may occur in about ten thousand subordinate Executive places to be filled from the outset through competitive examinations, and will require as much labor, care, and supervision, and as great a change in long, practised methods as in the opinion of the most experienced and competent judges it is either prudent or useful to attempt at the outset. And inasmuch as the President must (1) mature and put in force his general rules, and (2) there must be an examining board organized in each department at Washington, and one for nearly or quite all of the thirty offices outside that city (say about thirty-five boards in all), and (3) subjects of examination adapted to the needs of each office must be decided upon, and questions covering such subjects framed, before the examinations can begin—the Pendleton Bill allows six months for perfecting this preparatory work; after which the selections and promotions, within the scope of the bill, are to be only from among those who have shown the highest merit in such examinations.

The Pendleton Bill contains these four other fundamental provisions:

1. It confers authority upon the President (or recognizes it) for making and enforcing suitable general rules for carrying the act into effect, to which the Commission will be subject. It leaves in force the aforesaid 1753d section of the Revised Statutes (so far as consistent with the bill), which provides that these rules may extend to "age, health, character, knowledge, and ability for that branch of the service in

which he (the applicant) seeks to enter," * * * as may best promote the efficiency thereof, etc.—provisions quite in harmony with the Pendleton Bill.

2. That bill requires that it shall be a part of these rules—as it was of those made by President Grant—that persons in the public service shall not be liable to pay political assessments or be removed for failing to do so.

3. The bill also requires the rules to declare that no Federal officer has any right to use his official authority to coerce the political action of any citizen.

4. And for the very reason that the aim is to take the Executive subordinates (whose duties are in no sense political) out of party politics, and to bring into that service competent persons of business capacity and adequate information, irrespective of political opinions, the bill provides that not more than three of the five members of the Commission shall be of the same political party.

As the members of the detached examining boards are to be designated by the Commission, they are not likely to be all of the same party. And as they are to examine applicants on subjects, through questions and subjects to general rules, which the Commission (as authorized by the President) has approved, the political views of the members of the examining boards can be of but very little consequence under the Pendleton Bill; and the fact, that the members of the Commission are not to be all of one party, yet are bound to report its whole action, might lead to important disclosures in case an Administration should attempt to use the authority conferred by the bill for its own purposes or should attempt to limit the right of being examined to its own adherents.

We think, and the evidence taken before the Senate Committee shows it to be the view of all those competent from experience for judging practically of competitive

examinations, that such provisions are adequate and well devised for enabling those having the appointing power to secure the persons who are best qualified for those parts of the public service to which the bill extends; and that by not requiring too sudden changes or attempting too much at the outset, the reform may be introduced upon a sound basis and without disturbance or serious inconvenience.

IV.—The Leading Differences between the Pendleton Bill and the Dawes Bill.

1. There is, in the Dawes Bill, no commission or other authority having any general supervision of the examinations, or any duty to see that they are uniform or just, and no report concerning them is provided for. This is so important a defect, that it will be separately considered.

The President, under that bill, is to select the examining boards for each department, and the head of each department is to select the board for each office outside of Washington; and these boards—each of which, so far as its sphere of duty is concerned, has *all the authority of both the commission and examining board* under the Pendleton Bill—*may be wholly made up of members of the same political party;* there being no provision to the contrary. The possible action of boards thus constituted, taken in connection with the fact that no reports and no real publicity are provided for, impart to these defects of the bill a grave and obvious significance.

2. There are, in the Dawes Bill, no provisions—no condemnation even suggested—against the continued enforcement of political assessments, which, as we have seen, the Pendleton Bill has provisions for suppressing.

3. There are, in the Dawes Bill, no provisions against the continued coercions of elections by Federal officials, which,

as we have seen, the Pendleton Bill condemns. We have not been able to learn the reasons for discarding provisions which seem to us alike essential for the protection of the liberty of the citizen, and the self-respect and manhood of the public servant. Whether the failure of the framer of the Dawes Bill to condemn such abuses was deliberate or was the result of carelessness, we are not aware.

4. The Dawes Bill is made applicable at the outset to the departments at Washington and to *all* Federal offices elsewhere in which more than twenty persons are employed; but no discretion is given the President for extending its scope as experience may warrant. Now, as there are fully a hundred Post-Offices, Custom-Houses, Sub-Treasuries, and Naval Offices, and not less than thirty Internal Revenue offices, where there are as many as twenty persons employed, this bill would enforce competitive examinations in the outset in at least 130 offices outside of Washington!

In each of these offices there is to be an independent examining board of three members; so that, including the service required at Washington, there must be at least 137 examining boards created at once upon the bill going into effect. The bill contemplates that, after that time, no appointment can be made in any such office or department, except from among those competitively examined, and it is proposed that so radical a change shall take place on and after the first day of July next!

The objections to so sweeping an application in the outset of methods, comparatively new in our practice, and the danger from so many isolated independent boards, without effective supervision or any general report of their doings, are so numerous and grave, that we reserve them for separate consideration.

V.—Defects and Impracticable Provisions in the Dawes Bill, even if its Theory Should be Accepted.

1. The first section, which relates to applications for examinations, is not only needless, but, if retained, it would be found so imperfect, and yet exclusive, that it would be quite impracticable. While declaring what the applicant shall state and *forbidding* more, it would not even show him to be a citizen of the United States; nor would it contain any *prima facie* evidence of health or ability for the service—matters indispensable and expressly provided for in the 1753d section already cited, and which all rules and practice on the subject require in applications. If the Dawes Bill would leave that section in force as to applications—as we think it would not—then the first section of the Dawes Bill would be not only superfluous, but embarrassing. The Pendleton Bill wisely leaves the contents of applications to be regulated by the President's rules. What may properly be required in applications, will vary greatly in different branches of the service.

2. The provisions in regard to applications in the first section, taken in connection with what is exacted by the third and fifth sections, would require every person seeking a place in a Custom-House or Post-Office to make his application to the head of the department *at Washington.* Besides being a needless inconvenience, this would change the universal usage on the subject, would greatly burden the department, and would at the same time open a new opportunity for intrigue and dictation at the capital

Every postmaster receives an aggregate sum for carrying on his office. To him all applications for clerkships under him are made, and he employs, within the limits of the appropriation, whomsoever he approves, without any application

or action by the Postmaster-General. The Dawes Bill would work a revolution in this convenient and unbroken course of public business, by requiring every person seeking to enter the Post-Office at Portland, New Orleans, or San Francisco, to first apply to and be approved by the Postmaster-General. The change and inconveniences would be much the same at the Custom-Houses and other local offices.

3. The provisions in the second, the third, and the twelfth (and other sections), making the filling of places, competition, etc., turn on the amount of salaries, are highly objectionable. The salaries vary greatly, especially in Post-Offices, but in the departments as well; so that many clerks, intended to be embraced, would wholly escape the provisions of the bill—a great part of all those employed at the New York Post-Office, for example. Section 12 makes the bill inapplicable to clerks having a compensation of less than $900; yet they as much need to be under it as almost any other. Every change of salary would produce confusion. In the New York Post-Office competitions are in part resorted to *for the very purpose of determining salaries!*

4. Of another provision of Section 2, of the Dawes Bill, the *Record* well expresses our views, when it says that "the provision of that bill, that all promotions must be made on the basis of competitive examinations; that *all* applicants serving at an office must be allowed to compete; and that, on failure to secure a proper person within the office, *all outsiders* wishing to do so must be allowed to compete: these provisions, or at least the two last are, I believe, without precedent in the experience of any country; and I should regard their enforcement as disastrous to discipline, and sure to impair the harmony and efficiency of the public service. In large offices all the more ambitious surbordinates might be a quarter of the time engaged in examina-

tions. We need competition for promotion, but under carefully framed rules, with various exceptions. These views are shared by every experienced administrator of whose opinion I am informed, and especially by Mr. Schurz, Mr. Burt (the Naval Officer at New York), Mr. Pearson (the Postmaster), and Mr. James (the late Postmaster-General). In the Boston Post-Office, for example, the rules say that 'only those in the division in which the vacancy exists, or in divisions having analogous duties,' are allowed to compete; and yet the right to make exceptions is expressly reserved in these rules. More rigid competition than that for promotion has never been enforced. Yet this so-called Dawes Bill would give an impracticable, unprecedented rule for universal competition the rigidity of law; it would make Congress the court of appeal upon a mere department regulation."

These are examples of the departures in method from the carefully-considered clauses of the Pendleton Bill.

The right to compete for promotion should, as a rule, be confined to the surbordinates in the same office or bureau, and, when extended beyond, should be properly limited so as not to call all the clerks of a department, but only a reasonable number of those most experienced. The whole matter must be controlled by rules carefully matured, and which can be modified by the executive as experience may require. The provision that "*all* citizens" may compete, without allowing any exclusion of those not *prima facie* qualified, is utterly impracticable. The competition must be restricted to those apparently qualified as to age, capacity, and character. If great numbers apply, the competition must be restricted to a convenient number in the order of priority of their application.

5. The seventh section of the Dawes Bill requires all appointments to be made from the *three* highest, as graded

and as the result of the competition. This is too rigid a restriction of the appointing power to be made by law. The Pendleton Bill allows the rules to make certain exceptions (the extent and reasons of which are to be set forth in the annual reports), which will be found necessary; while generally they will require the selections to be made from the three highest.

6. But (says the *Record*) "the most important defect of the new bill is its failure to provide for a Civil Service Commission, or any sort of central authority for supervising the examinations and insuring their harmony, justice, good faith, and adaptability to the needs of the public service. Every reader must see that if one method and standard prevails at one office and department, and another at another, according to the caprice of each examining board, only confusion, distrust, and feebleness will be the result. Adequate illustration on these points would require too much space. I cannot assume that the old commission is to be retained under the Dawes Bill, since it is presented by a Senator who has declared himself strongly opposed to any commission. The failure to see the need of a supervising commission I must think springs from the lack of practical experience of the work to be done."

Let us glance at that work. It may be divided into five parts:

1. The preparation of the general rules which regulate all the applications, examinations, gradings, promotions, and dismissals, and the keeping of them at all times properly adapted to the various departments and offices. This requires great discretion and care. The President has time only for accepting or rejecting what has been matured for his decision.

2. The determining of proper grades and kinds of questions to be put and the amount of information to be

required for entering the various parts of the service. To do this, the kind of work to be done and the information needed in the different offices, divisions, and bureaus must be from time to time taken into account. It is a responsible duty, quite beyond the capacity of the office subordinates.

3. The conduct of the examinations pursuant to the standards of information to be enforced and the scale of questions to be presented, and the making up of lists of the relative standing as shown by the examination papers which are presented.

4. The hearing of all complaints of partiality and injustice, on the part of the examining boards. There will be charges of partiality, if not of gross favoritism; and if there be no opportunity for publicity and correction, except before the very examiners complained of, general suspicions will bring the boards and the whole system into discredit. The boards act, in a certain sense, as both judges and jury, and there must be a means of correcting injustice and of confuting damaging charges and fixing the responsibility for wrong. The penal provisions of the Pendleton Bill are based on this need, and British experience shows such supervision to be essential.

5. Annual reports of the results of all the examinations showing the information exacted, the number who fail, and for what reason, the kind of education of those who succeed, the sort of men and women brought into the public service, their ages, etc., etc., including all such facts as will show whether the standard of attainment is too high or too low to be consistent with the public interest; and the general effects of the new system. It is this complete publicity and these practical effects and the popular judgment upon them upon which the fate of the new system will depend and ought to depend. The Dawes Bill provides for no reports;

there could be no general publicity under it. The most novel, the most suspected, and, at first, the most difficult part of administration, would alone be without supervision or reports or general publicity.

It is only the third class of the duties above enumerated that would fall to the examining boards, and all the rest to the Commission, which is not in any strict sense an examining board at all, but a body bound to see that justice is done and action is prompt and wise on the part of all boards.

We repeat that at the outset all sorts of charges will be made against the examining boards by the hostile patronage-mongers and politicians whose spoils the new system will take away, and against the vast pressure of whom the boards will have to stand. The boards will need the Commission to fall back on. Such has been our experience and that of Great Britain to this day. The Dawes Bill would require about one hundred and thirty-seven independent examining boards at the outset; yet it provides for no supervision, no co-operation, nor even for mutual support. They are to be made up of clerks in the separate offices. No compensation even is provided for extra work and responsibility—a fatal omission, we must think. It would be as safe to release the Postmasters and Collectors from a common responsibility and subordination to the heads of departments, as to allow to a hundred isolated boards—entering upon delicate duties of which they are ignorant—supreme authority, with no chance for correcting abuses, and nobody responsible for their wisdom or fidelity.

If it be said that Mr. Schurz, the Postmaster at New York, and Mr. Burt, who has had charge of the Custom-House and Naval Office examinations there, have been successful when the Commission has not been very active, or that there have been competitive examinations by the Post-

master at Boston, the answer as to the latter is that in no other community would there be a public sentiment anything nearly so intelligent and friendly as have come to his support; and as to all the other gentlemen, they have declared their profound sense of the need and great utility of such a Commission. That fact appears in the statements of each of them (except Mr. Schurz, who has not been examined) before the Senate Committee; and Mr. Schurz has considered and approved the Pendleton Bill, and also holds the views we have stated.

They hold, we repeat, that the successful work accomplished at New York would not have been possible through examining boards alone, and that a supervising Commission is essential. The report circulated to the contrary concerning Mr. Pearson, the Postmaster, is quite unfounded. Men of the largest experience and capacity outside the boards gave their time to the New York experiment, in order to show Congress, which had refused appropriations, what could be done, and to convert its members who sneered at reform. Yet the boards have performed a great self-sacrificing work, for which they should be paid, and we have their appeal to secure them compensation. We cannot favor a bill which expects such extra labors in the future, and yet expects them without compensation.

The need of a Commission would never have been doubted if there had been a clear conception of the work to be done. Common speech has referred to that work as if conducting examinations were the more important and absorbing part. Such is far from the fact. Before we reach an examination we have to decide such questions as these,—all of which can have but a tentative answer at first, and must be made the subjects of continuous observation, experiment, and study:

1. For what portions of the service should exam-

inations be had—whether for original entrance or promotion?

2. Who shall be allowed to be examined? This raises questions of sex, of age, whether too old or too young, of evidence of citizenship, of adequate proof of good character, of health, and of apparent capacity for the service sought. For, surely, it is of no use to examine a person plainly inadmissible to the service.

3. The many questions as to the proper subjects of examinations for the different branches of the service, because the information needed for the duties of one place is very different from that required in another.

4. Next, the extent of information, and hence the grade and purport of the questions to be put upon each subject, so as to secure the capacity needed, and yet not for mere literary reasons exclude those who are in fact competent for the service. The mere matter of the proper kind and grade of questions is tenfold more difficult than the conduct of the examinations after the questions are decided upon.

5. When, for any grade of examinations, such matters are decided, we still have the need of wise and just regulations for notices of the examinations, for conducting them, for marking, and for grading and certifying the results of them, for determining the right of re-examination, etc., etc. While the President, subject to the statute, *must decide upon all such matters*, he needs the Commission to bring the proper facts before him.

It will be seen, therefore, that the mere conducting of the examinations and making up the results are but a subordinate part of the responsible functions to be performed. Hence, to create a system of mere examining boards, and to hold them up as everything needed, is to mistake and fatally underestimate the practical methods of reform. It

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is to forget their relations to the public interests and to the great principles of justice on which the reform must rest.

The examining boards, scattered over the country, are made up of clerks, to whose primary duties for which their salaries are paid the examinations are but incidents. These clerks may at any time be dismissed, promoted, or transferred, which contingencies, if they are the sole responsible bodies, are fatal to consistency and uniformity of action, and also to that thorough mastery of the subject which is essential to success.

Such facts point to the need of a Central Commission with some stability of tenure, by which the general and more difficult duties shall be performed, and uniformity and intelligence of action be enforced.

But, still more important, a local board of examiners, made up of mere subordinates—which to the public eye would decide who shall be examined, upon what subjects and in what order, and which would also report the grade of merit it has determined, and keeps the only record of its own doings—would be peculiarly liable to suspicions of unfairness. It would appear to be autocratic and absolute.

There must be something in the nature of an appeal or rehearing allowed, in cases of apparent injustice or general distrust. There must be investigations of alleged wrong in the examinations and gradings. No judge ever decides absolutely and finally, but everywhere there are appeals and rehearings provided for in proper cases. Now, the Commission does not examine at all, but sees that all examinations are fair and all markings are just, whenever called in question. Whenever a complaint of any kind is made, it will investigate the facts. To the Commission, every one feeling wronged can appeal. Abuses are not likely to be corrected by the same officials guilty of them. The people are sure to

suspect boards which are the judges in their own cases. The President, on his own motion or that of the head of a department, can direct the Commission to look into the doings of any board of examiners. The fear of this will cause those bodies to perform their duty more faithfully.

We may be sure, and all experience has taught, that, as the spoils are suppressed by competitive examinations, they will be opposed and misrepresented—even in Congress—by their enemies. Without some central body keeping itself well informed and ready and able to present the truth whenever, in high quarters, it may be misrepresented, the new system cannot succeed. Mere isolated boards of clerks will have neither the time, the prestige, the ability, nor the courage essential for meeting the combined assaults of the enemies of reform. Members of Congress will be forced to give expression to, even if some of them do not magnify, the local discontent which the destruction of local patronage will at first cause.

The annual reports of an able Commission would be an educational influence in behalf of the new system which its friends cannot afford to overlook. It is, for example, a common belief that the new system will give the public places to college-bred men and to bright boys and girls without practical ability. It is not enough that the few familiar with the facts know that such are not the results. The facts proving the contrary must be spread broadly before the people, or the new system will not be long tolerated.

It is only by comparing the results in many different offices, and in different parts of the Union, that we can tell whether the new system tends to economy and brings higher character and capacity into the service. But that information requires a Central Commission to gather and compare the results in general reports, for which the Dawes Bill makes not the least provision. That bill would leave

the action of its 137 boards the dark and suspected secrets of their own separate records.

The suggestion that the commission under the Pendleton Bill is given excessive authority is without warrant. The general rules which the President is to make will *define the powers of the commission itself;* and with the special exceptions defined in the bill they will be no greater or other than these rules will declare. At his pleasure, within the discretionary limits of the law, the President can, from time to time, enlarge or diminish the authority allowed by the rules. And surely it is proper for the President to thus define those powers, because the sole purpose of a commission and of examinations is to aid the Executive in the just and intelligent exercise of the appointing power which the Constitution confers. The only duty or authority of the commission (save one other I shall mention), which is not thus in the discretion of the President, is that of making a full annual report. Does it need any argument to prove that the President should have no power to deprive the people of information as to the workings and effects of the new system?

It has been suggested that the right of reporting, or of gaining knowledge for making the reports complete, would interfere with the authority of heads of departments and bureaus. There is no warrant for that suggestion, and those who have sanctioned it have occasion to examine the Pendleton Bill more carefully.

Public sentiment will doubtless require that, under every system, those who are given places in the public service shall be taken from the different sections of the Union in a ratio closely approximating that of population. This can be done only by having the records of the appointments kept in that complete and accurate manner which is provided for under the commission which the Pendleton Bill

creates. That bill provides, in Section 2, that the appointments shall be apportioned in the ratio of population.

VI.—But it is said the Dawes Bill is simple and can be more easily enforced.

We must regard these assumptions as a grave mistake. The Dawes Bill has thirteen sections; the Pendleton Bill but seven. The Dawes Bill is by far the more complex and difficult to put in operation. Consider these facts. At the outset, the Pendleton Bill requires, as we have seen, competitive examinations in the departments at Washington, and in all Post-Offices and Custom-Houses which have fifty or more subordinates, of which there are about thirty.

The Dawes Bill requires competitive examinations at the outset in the same departments and in all Post-Offices, Custom-Houses, and various other offices where there are twenty or more subordinates, of which there are as many as one hundred and thirty, and it authorizes no extension. The greatest work ever to be attempted is to be undertaken at the very first, when the inexperience and the difficulties are most formidable.

The Pendleton Bill allows six months after its passage before admissions to those offices, otherwise than through competitive examinations, are to be illegal.

Under the Dawes Bill no one, according to its intent, can be admitted, save through such examinations, after the first day of July next. Such examinations must be in complete operation at that date, at one hundred and thirty different places, though the bill do not pass until the end of June.

Under the Pendleton Bill there would be a commission consisting of five members and an examining board of three examiners for each department, and a like board of

three members for each of the thirty separate Post-Offices and Custom-Offices; making in all thirty-eight bodies and one hundred and nineteen members to be arranged for and made ready for work in six months. But, by reason of the important duties performed by the commission, the members of these thirty-seven boards would need much less instruction *and their organization and duties would be far more simple than would suffice for any board under the Dawes Bill.* To have one of the bodies to be created—that is, the commission—a central one, always well informed and in ready communication with all the others, and, with the President and the heads of departments, would manifestly contribute to facility, sufficiency, and harmony in the examinations.

Under the Dawes Bill there is to be a board of three in each of the seven departments, and also a board of three for each office (one member of the department board to be a member of the local boards), of the hundred and thirty where examinations are to be held; being in all one hundred and thirty-seven bodies and two hundred and eighty members in the outset to be provided for; and there being no commission to perform the duties which are general—which are common to each board—every one of them must be made competent for the entire work of a board at the outset. If that is greater simplicity and ease of execution in the Dawes Bill, which thus requires in the very outset of a delicate and difficult work for which very few persons have the necessary experience, so many additional boards to be created, and so many additional members to be selected and instructed—which compels a hundred separate Post-Offices and Custom-Houses, and other offices scattered broadly over the country to be brought under a new system at the beginning, beyond everything required by the Pendleton Bill, then indeed is the Dawes Bill the simpler and safer to begin with. Men

of experience in the practical difficulties of reform have more moderate views of what is safe or practicable.

Let it not be forgotten that, outside of New York and Boston—in which latter city President Hayes succeeded in starting the competitive system in the Post-Office, but not, I believe, in the Custom-House—there are not among the officials at one of those hundred Post-Offices and Custom-Houses altogether a dozen persons who have had the experience needed to prepare for or conduct a competitive examination, or a hundred who ever even attended one.

The officials at the head of nearly every one of the hundred additional Custom-Houses and Post-Offices, at which, under the Dawes Bill, the new system must be enforced by the first of July next, are not only utterly inexperienced in the new system, but in large part they are in the midst of communities so strongly partisan that the competitive system at the outset can have no change, unless perfect in its methods, just and discreet in their enforcement, and strongly backed by a wise supporting influence from Washington.

We must keep within safer limits, and make our good work light the way as we advance. Confusion, deception, and reaction of public opinion will be almost inevitable, if the first work is badly done. This, English experience and our own equally teach. We are not aware of a person of experience in such matters who does not hold these views.

It was for these reasons that the friends of reform, experienced in the enforcement of its practical methods, felt it to be unsafe to extend them at the outset beyond the thirty offices comprehended by the Pendleton Bill, and that they now look with concern upon an attempt to embrace a hundred more offices at the beginning. They feel that the new system, for this decade at least, must stand or fall by its first examples of practical work. They think it necessary to make every new office where it is enforced an educat-

ing influence for its own strength and extension, since nothing can make it stable but a more enlightened public opinion. They are surprised at the impetuous confidence of those who have never considered the difficulties or tried the new methods. Every failure, fraud, and foolish question at any office or on the part of any board will be gathered and denounced in Congress and in all partisan circles. They know that competitive examinations in unworthy hands, and not subjected to adequate supervision and publicity, may be made to cover gross injustice. They could see that it was entirely practicable, within the time fixed by the Pendleton Bill—by bringing the more experienced men into co-operation under a commission—to put examinations in force in the seven departments and the thirty larger offices, upon such just principles and to so fairly and clearly conduct them and to give them such absolute publicity under its supervision, as to lay a stable foundation for the new system. But, in the light of their experience, they feel that if its enforcement at a hundred additional offices, without any supervision, is to be attempted at once, only confusion, injustice, and disaster will follow. An enemy could hardly devise a more plausible scheme for wrecking the new system.

The spoilsmen will resist and misrepresent at every point. Why then create a hundred more salient points of attack than the experienced advisers of the Pendleton Bill thought safe, at which every folly and mistake of inexperienced examiners will discredit the whole system?

We have no hesitation in putting on record our opinion:

1. That *it is not possible*, even in an imperfect manner, to put the Dawes Bill in operation, until many months after its passage, nor at any time to make it successful or safe.

2. That it would be far wiser to limit our efforts at present to the departments and the offices in New York, Boston,

and Philadelphia than to go one office beyond those covered by the Pendleton Bill.

VII.—It is said that the President and Heads of Departments, or, if not, those interested in Reform, will Supervise the Examining Board under the Dawes Bill.

This is an illusive hope. That bill would not only sweep away the existing commission, but it is repugnant to the creation of another under Section 1753 of the Revised Statutes.

The President has no time for such supervision. He can only lay down general principles in his rules. He is struggling now for relief from overwhelming details. It is idle to expect that he can investigate the charges that will be made of partiality, of unfair marking and grading on the part of more than a hundred and thirty boards scattered all over the country. The heads of departments have no more time than he for such work. They would not be experts in practical methods. What they need is a commission which will supervise the bringing before them of the best applicants from which they will make the proper selections for appointments. In carrying forward the competitive system at New York, private individuals interested in the subject have thus far aided the boards. These private sacrifices cannot be continued indefinitely. The country now knows what can be done if members of Congress will only follow the example of the members of the British Parliament and surrender their patronage to their duty. It is quite chimerical to expect a private supervision of these one hundred and thirty isolated boards stretching from Portland to San Francisco, and from Galveston to Milwaukee and Charleston, of their regulations, their forms of application, their endless series of questions, their

markings, their gradings, their rulings on disputed points, their conditions for selections and notices, their ways of dealing with complaints, to say nothing of many other technical points, or of the vital need of means of redress in every case of alleged or wilful injustice, upon which, under a half-educated, if not hostile public opinion, at so many points, the fate of the competitive system will in the outset be staked. Such supervision is impossible, because, unless backed by legal authority, it would be defied by the conniving partisan boards who would most need it; impossible, because the passage of the Dawes Bill would be a declaration by Congress that supervision was needless and impertinent; impossible, because, however great the zeal for reform, private individuals cannot indefinitely execute a great function of government; impossible, because it is far beyond the range of self-sacrifice to attend simultaneously to the doings of so many new boards so widely separated. We must decide deliberately, before the start, whether we will trust ourselves in mid-ocean in leaky ships with land-lubber crews.

Heretofore, almost everybody except those who have stood by these competitive experiments and have understood them, have been telling us that the spoils system is so strong that to confront it would be hopeless, at least without an "omnipotent public opinion" to be created. Experiments have proved the contrary. And now it is suddenly proclaimed that to withstand the system, to put it down and a new one in its place, is so easy that it may be done at a hundred and thirty hostile centres of politics at once, by mere boards of three Custom-House or Post-Office clerks, all ignorant of their delicate duties, each deciding who shall be examined, each determining all grades of merit, each hearing all complaints against its own alleged wrongs, each keeping in secrecy its own record, no one making any reports of its doings, no one

subject to any supervision by intelligent authority, every one told by a refusal of all pay that only perfunctory efforts are expected or deserved.

VIII.—The Claim that the Dawes Bill Involves no Expense.

All the care and labor the new system will inevitably cause ought to be paid for, and will be, directly or indirectly, under the Dawes Bill or any other. Consider the facts. Every Postmaster has his aggregate allowance for the carrying on of his office. When the new work of preparing for and conducting the examinations is added, the new labor will be allowed its place and time, and be paid for as regularly as any other. So it has been in the New York Post-Office. Mr. Dawes' Bill would require one member of the Post-Office board of examiners at Washington to go several times a year, as often as the examinations may be held, to Portland, to San Francisco, to Galveston, to Charleston, to Boston, and to every other of the sixty or more Post-Offices where examinations would be held, and to take part in them. The whole time of this itinerant examiner would not enable him to attend them all, even if the exigencies of the offices did not require simultaneous examinations hundreds of miles apart. Yet this examiner is to be a clerk in the Post-Office department at Washington! Who is to perform his duties there, who is to pay his travelling expenses and hotel bills while journeying over the Union, if the Dawes Bill plan is to involve no new expenditure? In the Treasury department this plan of reform, on the basis of charity and unpaid labor, is yet more impracticable and illusory. The members of a board for that department cannot do the new work even for Washington, while earning their salaries besides. There are three thousand clerks at the Treasury.

The Dawes Bill also covers the Internal Revenue service, the Light-house, the Signal Service, the Land Offices, the Life-saving service, the Marine Hospital service, the Bureau of Engraving, the Revenue Marine service, the service at the Mints, the Assay Offices, and the Sub-Treasuries; nor are these all which require peculiar examinations.

Now, one member of the Dawes Treasury board must attend, in addition to all the Washington examinations, every examination at every Custom-House, Internal Revenue Office, Assay Office, Mint, and Sub-Treasury in the Union where they are to be held, from California to Maine. All this, too, is to be done without loss of time at the Treasury, or a dollar for travelling expenses! No one man can attend all these examinations. We must, in all candor, say that to one acquainted with the care, labor, and responsibility of such examinations, and the hostility they must encounter at their first introduction, such a scheme appears, to say the least, utterly impracticable It is a scheme which no person, practically acquainted with the work to be done, would entertain for a moment. Its execution is simply impossible.

Under the Pendleton Bill, no person from Washington is a member of any local board; and either the chief examiner or one of the three commissioners not otherwise in the public service would attend the local examinations whenever necessary, and their expenses are provided for. The writer in the *Record* says:

"My own experience, not less than the magnitude of the reform to be accomplished, has convinced me that we must look upon it as a serious and difficult work, requiring time, care, ability, quite beyond the unpaid devotion and the untasked hours of a few department, Custom, and Post-Office clerks. I venture to declare that hardly any department of the Government will, in the early stages of a really effective reform, require at its head a more statesmanlike ability, a

more thorough knowledge of our administrative system, or more patience and discretion, than will be essential to guide the practical work of such a reform, for which pecuniary support and a central supervision are indispensable. Every President who has come to understand that work has, by his acts, condemned the frail charity system for doing it. In the outset President Grant called for an appropriation, which was granted. Several times subsequently he called for $25,000 a year to carry on the work; and he refused to go further, because Congress allowed him no money. President Hayes repeatedly urged such an appropriation as essential, and he also requested the means of paying the local examiners at New York. In his last message, President Arthur, who has had practical experience in administration, says: 'I *earnestly* request, should there be a failure to pass any other act, an appropriatian of $25,000 per year to execute the law under which the Civil Service Commission now exists.' Against these voices of experience, which the Pendleton Bill embodies, no evidence and no opinions of competent persons are cited. We are asked to reject that bill and all that experience, on naked theory alone."

It is reported that the Collector of Boston likes the Dawes Bill for giving a board of examiners taken altogether from the local office. Such is not the composition of the boards under that bill. Under the Pendleton Bill, as under the existing commission, the board of examiners at a Post-Office or Custom-House (as is now the fact both at New York and Boston) would be wholly composed of three subordinates of the local office: whereas the Dawes Bill (see Section 5) requires such boards to be made up of one member from Washington and two from the local office.

IX.—Objections to the Pendleton Bill.

It is said that the commission under the Pendleton Bill is (1) anomalous and dangerous in form and purpose; (2) that the members of the commission are appointed differently from other officers or commissioners.

1. Mr. Dawes has answered the first objection. This is the language of his late speech in the Senate comparing the two bills: "Neither introduced any *new and untried element* into the civil service, nor authorizes any method of administration, beyond mere details, not before known to it. . . . The bill introduced by me, . . . *taking that* [of Mr. Pendleton] *as a basis*, proposes to *widen* its scope." We have seen how and at what needless peril this widening is attempted. Much more than what Mr. Dawes had occasion to state is true. It is precisely the commission, thoroughly tested in our service under General Grant (as has been the case of an analogous commission in that of Great Britain), which has been tried for enforcing competition which has been successful, and against which there has never been even a charge of infidelity or incompetency. It is precisely the plan of autocratic, independent boards, proposed by the Dawes Bill, which is untried, utterly anomalous, and ven turesome. It is a commission, approved by three successive Presidents, for carrying on the work under existing laws, and for which President Arthur, in his last message, asks an appropriation (in case no new law is passed), which is created with safe limitations under the Pendleton Bill, with the same purpose and with substantially the same functions as the former commission. The need for the new statute arises almost solely from the fact that the existing law does not commit Congress to the competitive system, but leaves its members at liberty to denounce that system, and to put the whole responsibility upon the President—a liberty the

disastrous exercise of which, added to their refusal of appropriations, arrested the work of reform in 1875.

2. But it may be asked, Are not the new commissioners to be differently selected from the old? Has not the Dawes Bill alone kept within prudence and the Constitution in selecting those who are to execute the law? No: there is no foundation for such claims. They rest on mere assumption or mistake of facts. The members of the old commission and the new alike gain their places by the designation of the President, without any action by the Senate. Every member of the seven Dawes Bill boards at Washington and one of the members of each of the one hundred and thirty other boards get their places in precisely the same way, by the mere designation of the President, without any action of the Senate. The others are selected by the heads of departments. Either the appointing power is not involved at all, but only the authority conferred by Congress (as I hold to be the fact) to designate and employ, or else that power is equally exercised in the selection of a commissioner and of each of the members of those examining boards. The members of the old commission were never held to be officers. They had no commissions. They were simply employed by and could be discharged by the President. Their sole function is to facilitate the intelligent exercise of the appointing power. It is true that, while both the existing law and the Dawes Bill would alike leave the President at liberty to select the members of the commission and of all the examining boards from *the same party*, the Pendleton Bill says that "not more than three of the five members of the commission shall be adherents of the same party."

This, certainly, is not giving new power, but is a limitation of power, quite familiar in our Administration. It is a limitation which has long prevailed as to the appointment of marshals, from the law for which (United States Revised

Statutes, Section 2012) the language of the Pendleton Bill is borrowed. Will any one claim that it is fit in itself, or wise as policy, in view of the need of carrying a bill in a Congress nearly equally divided between the two parties, to connive at a partisan commission or partisan boards for enforcing non-partisan examinations? Has the Dawes Bill such ends in view, when it drops out that significant provision of the Pendleton Bill?

In Mr. Dawes' late speech, in urging his bill as a substitute for that of Mr. Pendleton, he assumes (1) that great and dangerous powers are conferred by the latter and not by the former; and (2) that the Pendleton Bill creates new offices, and that the Dawes Bill does not, but merely *employs* persons. We have only to get a clear view of the subject to see the fallacy of such theories. The two bills seek to do the same things by methods not new or requiring the delegation of new authority, as the Senator has himself declared in the language just quoted.

The Dawes Bill attempts more at first, and hence demands more aggregate authority in the outset. Under both, the rules made by the President will, under the law, be supreme over every person employed to execute them, whether he be called commissioner or examiner.

The great difference in the bills, in the matter of authority, is this: that the Dawes Bill distributes the authority equally among several hundred examiners and the one hundred and thirty boards for which it provides; but the Pendleton Bill confers upon one board, called the commission, that part of the authority demanding larger information which is general in its scope, and the exercise of which is necessary to secure harmony and efficiency, leaving to the separate boards the authority they need for the conduct of the examinations. It is too plain for argument, when we reflect a little, that this convenient division

does not make the authority given either more or less. Would the authority for the care of a hospital or a ship be any the less, if it were divided equally between the crew or the nurses, instead of being largely concentrated upon the captain and the superintendent? or that for management of a bureau be less, if every clerk in it had equal authority with the chief? Is there more or less, except of strength, in a wagon-wheel, merely because you insist on having the tire in as many pieces as there are spokes?

One duty, ominously unprovided for by the Dawes Bill, the officials, under the Pendleton Bill, certainly have put upon them; that of making an annual report to the President, setting forth what has been done and the ways of doing it, what kind of persons have been brought into the service, and how they have been brought in, the practical effects of the new system and the best means of improving it. But, surely, the opening of all doings to the public gaze, the presenting of all facts to criticism, which are at once the highest guarantee of fidelity and the greatest discouragement to injustice, will not be charged as an increase of power on the part of those who are thus placed in the light and deprived of all secrets.

Nevertheless, the whole argument of the learned Senator is to the effect that, notwithstanding every one of his boards has *autocratic authority to do everything except report and expose abuses, which both a board and the commission by their united action can do under the other bill*, yet the members of these Dawes boards are not officers at all. They have only innocent powers, compared with those conferred by the Pendleton Bill. They are only persons *employed*. He even insists that a mere subordinate, to be employed by the commission and called the chief examiner under the Pendleton Bill, is an officer, and that he is clothed with dangerous powers, though hav-

ing an authority vastly less than that of either member of the department boards under the Dawes Bill. When we consider that nearly every commission yet created, that every committee of the Senate, that, from the foundation of the Government, every Postmaster needing clerks—the Postmaster of New York having more than twelve hundred persons serving under him, including an Assistant-Postmaster, authorized any day to take his place—have been in the habit of selecting and employing all their own subordinates without anybody pretending that such selection was an exercise of the appointing power, it seems strange indeed that the Pendleton Bill should be attacked as unconstitutional and dangerous, because the commission is allowed to employ two assistants.

Let us not rush from one extreme into another. All but a few hopeful and courageous citizens have been long in the habit of insisting that the evils in our civil service are so great as to defy all attempts at their eradication. Now, of a sudden, those evils are being treated as so slight that, despite the lessons of all experience to the contrary, they may be arrested by boards of mere clerks who are to perform the work of salvation in hours of extra labor without compensation or concert of action. Both views are alike unfounded, and it will be a serious calamity if we throw back the cause of reform a decade, by trusting it to incompetent hands and to methods utterly defective and faulty.